Supreme Court, U.S.
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No. 99-1974

In The

Supreme Court of the United States

JIM WEINS AND MAC MEYER,

Petitioners,

v.

ROBERT A. SPORLEDER, MERLE VAN LIERE AND EN-R-G-MAX, INC.,

Respondents.

On Petition For A Writ Of Certiorari To The Supreme Court Of South Dakota

SUPPLEMENTAL BRIEF

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3 pp

THE 1ST APP. DIST. DIV. 4 OF THE CALIF. CT. OF APPEAL HAS HELD THAT THE UNIFORM TRADE SECRET ACT IS TO BE CONSTRUED TO SECURE UNIFORMITY IN ITS APPLICATION AMONG THE STATES ENACTING IT.

At page 10 of Petitioners Reply Brief Petitioners state that certiorari should be granted because:

> "2. The Uniform Trade Secrets Act has been adopted in 41 states and in a great number of instances involves interstate commerce. There should be a federal interest in uniform application of this law."

At the time petitioners had no authority other than the Act itself to support "2" above. On 8/4/2000, the Cal. Ct. of Appeal in *Glue-Fold, Inc. v. Slautterback Corp. et al.*, Cal. Daily Opn. Service 6543,[1] held at page 6545 in footnote 7 that "[t]he Uniform Act as adopted in California provides that its protection does not displace other contractual or civil remedies. (§ 3426.7 subd.(b).) A leading treatise also recognizes that misappropriation of a trade secret can form the basis for many common law and statutory causes of action. (*Trade Secrets Practice in California*, supra §§ 11.38-11.55.)" The California statute referred to above is the same as SDCL 37-29-7(b) set out in toto in Weins' and Meyers' Petition for Certiorari at page 5.

More importantly, *Glue-Fold*, supra, holds at page 6544 that "[a]nother provision of the Uniform Act specifies that it is to be construed to effectuate its goal of

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[1] The *Glue-Fold, Inc. v. Slautterback Corp.* opinion is available online at the California Courts' web page. The address is www.courtinfo.ca.gov/opinions/documents/AO88453.DOC

securing uniformity in application. (§. 3426.8)."[2] The holding in *Ed Nowogroski Ins., Inc. v. Rucker*, 971 P.2d 936 (Wash. 1999), which was quoted at length in the Petition for Certiorari at pages 19-22, is the same construction that the UTSA has received in other jurisdictions. Sporleder, Van Liere and En-R-G-Max, Inc. have presented no substantial justification as is required by *Glue-Fold*, supra, for diversing from the holding in *Nowogroski*.

In light of this recent decision, the need for this Court's intervention is all the more evident. The confusion in interpreting the UTSA by the South Dakota Supreme Court has already raised and will continue to raise conflicts with other state courts of last resort. *Nowogroski*, supra. Weins and Meyer, therefore, pray that certiorari be granted.

Respectfully submitted,

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[2] Section 3426.8 is substantially the same as the statute contained in the South Dakota UTSA. SDCL 37-29-8 provides: "This chapter shall be construed to effectuate its general purpose to make uniform the law with the respect to the subject of this chapter among the states enacting it."